

IC 27-1-15.8

Chapter 15.8. Surplus Lines Producers

IC 27-1-15.8-1

Applicability of definitions

Sec. 1. The definitions in IC 27-1-15.6-2 apply throughout this chapter.

As added by P.L.132-2001, SEC.5.

IC 27-1-15.8-2

Other provisions applicable to licensure of surplus lines producers

Sec. 2. The following provisions of IC 27-1-15.6 apply to licensure of surplus lines producers under this chapter:

- (1) IC 27-1-15.6-5.
- (2) IC 27-1-15.6-6.
- (3) IC 27-1-15.6-8 through IC 27-1-15.6-13.
- (4) IC 27-1-15.6-15 through IC 27-1-15.6-17.
- (5) IC 27-1-15.6-21.
- (6) IC 27-1-15.6-32 through IC 27-1-15.6-34.

As added by P.L.132-2001, SEC.5.

IC 27-1-15.8-3

Qualifications for license

Sec. 3. (a) A surplus lines producer may receive qualification for a license in one (1) or more of the kinds of insurance defined in Class 2 and Class 3 of IC 27-1-5-1 from insurers that are authorized to do business in one (1) or more states of the United States of America but are not authorized to do business in Indiana whenever, after diligent effort, as determined to the satisfaction of the department, the licensee is unable to procure the amount of insurance desired from insurers authorized and licensed to do business in Indiana.

(b) An applicant for a surplus lines producer's license must be licensed in Indiana as an insurance producer qualified as to the line or lines of insurance to be written.

As added by P.L.132-2001, SEC.5.

IC 27-1-15.8-4

Bond; percent of gross premiums remitted to department; affidavit and financial statement filed with department

Sec. 4. (a) During the period that a resident surplus lines producer's license is in effect, the licensee shall keep in force a bond in the penal sum of not less than twenty thousand dollars (\$20,000) with an authorized corporate surety approved by the commissioner. The aggregate liability of the surety for any and all claims on a bond does not exceed the penal sum of the bond. A bond may not be terminated unless written notice of termination is provided by the surety to the licensee and the commissioner not less than thirty (30) days before termination. Upon termination of a resident license for which a bond was in effect, the commissioner shall notify the surety of the termination within ten (10) business days. All surety

protection under this section inures to the benefit of the state of Indiana to assure the payment of all premium taxes.

(b) A resident surplus lines producer shall, at the time of an initial filing under subsection (c), file with the commissioner proof of the bond in the amount required under subsection (a). In each subsequent calendar year, the resident surplus lines producer shall file proof that the bond remains in effect. A subsequent filing under this subsection shall be made in conjunction with the annual filing required under subsection (e).

(c) In addition to all other charges, fees, and taxes that may be imposed by law, a surplus lines producer licensed under this chapter shall, on or before February 1 and August 1 of each year, collect from the insured and remit to the department for the use and benefit of the state of Indiana an amount equal to two and one-half percent (2 1/2%) of all gross premiums upon all policies and contracts procured by the surplus lines producer under the provisions of this section during the preceding six (6) month period ending December 31 and June 30, respectively. The declarations page of a policy referred to in this subsection must itemize the amounts of all charges for taxes, fees, and premiums.

(d) A licensed surplus lines producer shall execute and file with the department of insurance on or before the twentieth day of each month an affidavit that specifies all transactions, policies, and contracts procured during the preceding calendar month, including:

- (1) the description and location of the insured property or risk and the name of the insured;
- (2) the gross premiums charged in the policy or contract;
- (3) the name and home office address of the insurer whose policy or contract is issued, and the kind of insurance effected; and
- (4) a statement that:
 - (A) the licensee, after diligent effort, was unable to procure from any insurer authorized to transact the particular class of insurance business in Indiana the full amount of insurance required to protect the insured; and
 - (B) the insurance placed under this chapter is not placed for the purpose of procuring it at a premium rate lower than would be accepted by an insurer authorized and licensed to transact insurance business in Indiana.

(e) A licensed surplus lines producer shall file with the department, not later than March 31 of each year, the financial statement, dated as of December 31 of the preceding year, of each unauthorized insurer from whom the surplus lines producer has procured a policy or contract. The insurance commissioner may, in the commissioner's discretion, after reviewing the financial statement of the unauthorized insurer, order the surplus lines producer to cancel an unauthorized insurer's policies and contracts if the commissioner is of the opinion that the financial statement or condition of the unauthorized insurer does not warrant continuance of the risk.

(f) A licensed surplus lines producer shall keep a separate account

of all business transacted under this section. The account may be inspected at any time by the commissioner or the commissioner's deputy or examiner.

(g) An insurer that issues a policy or contract to insure a risk under this section is considered to have appointed the commissioner as the insurer's attorney upon whom process may be served in Indiana in any suit, action, or proceeding based upon or arising out of the policy or contract.

(h) The commissioner may revoke or refuse to renew a surplus lines producer's license for failure to comply with this section.

(i) A surplus lines producer licensed under this chapter may accept and place policies or contracts authorized under this section for an insurance producer duly licensed in Indiana, and may compensate the insurance producer even though the insurance producer is not licensed under this chapter.

(j) If a surplus lines producer does not remit an amount due to the department within the time prescribed in subsection (c), the commissioner shall assess the surplus lines producer a penalty of ten percent (10%) of the amount due. The commissioner shall assess a further penalty of an additional one percent (1%) of the amount due for each month or portion of a month that any amount due remains unpaid after the first month. Penalties assessed under this subsection are payable by the surplus lines producer and are not collectible from an insured.

As added by P.L.132-2001, SEC.5. Amended by P.L.160-2003, SEC.2.